

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

FILED BY CLERK

JAN 30 2007

COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,)	
)	
Respondent,)	2 CA-CR 2006-0184-PR
)	DEPARTMENT A
v.)	
)	<u>MEMORANDUM DECISION</u>
)	Not for Publication
SELENA ALICIA CORONADO,)	Rule 111, Rules of
)	the Supreme Court
Petitioner.)	
_____)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR-20012121

Honorable Howard Hantman, Judge

REVIEW GRANTED; RELIEF DENIED

Robert J. Hooker, Pima County Public Defender
By John F. Palumbo

Tucson
Attorneys for Petitioner

H O W A R D, Presiding Judge.

¶1 After separate jury trials, petitioner Selena Alicia Coronado was convicted in CR-20012121 of attempted second-degree murder and two counts of aggravated assault and, in CR-20013319, of aggravated robbery, armed robbery, and aggravated assault. The trial court imposed concurrent, aggravated sentences in each case, the longest in both being a

twenty-one-year prison term. The aggravating factors cited by the court were “severe emotional harm to the victims, the defendant’s prior felony convictions and the threat she poses to the community.” The court ordered the concurrent sentences in the two cases served consecutively to each other. This court affirmed the convictions and sentences on appeal. *State v. Coronado*, Nos. 2 CA-CR 2002-0404, 2 CA-CR 2002-0405 (consolidated) (memorandum decision filed Apr. 29, 2004).

¶2 Before our mandate was filed in November 2004, the United States Supreme Court issued its decision in *Blakely v. Washington*, 542 U.S. 296, 124 S. Ct. 2531 (2004). Coronado subsequently filed a petition for post-conviction relief pursuant to Rule 32, Ariz. R. Crim. P., 17 A.R.S., contending she was entitled to be resentenced pursuant to *Blakely* because the sentencing court had relied on aggravating factors not found by a jury. The trial court denied relief based on *State v. Martinez*, 210 Ariz. 578, 115 P.3d 618 (2005), which holds that, once a single *Blakely*-compliant or *Blakely*-exempt aggravating factor has been properly established, thus exposing the defendant to an aggravated sentence, the trial court may then consider other aggravating circumstances that have not been submitted to a jury, as long as the sentence ultimately imposed does not exceed the aggravated range established by the single exempt or compliant factor. *See Martinez*, 210 Ariz. 578, ¶ 16, 115 P.3d at 623; *State v. Molina*, 211 Ariz. 130, ¶ 16, 118 P.3d 1094, 1099 (App. 2005).

¶3 We review a trial court’s grant or denial of post-conviction relief only for an abuse of the court’s discretion, *State v. Morgan*, 204 Ariz. 166, ¶ 25, 61 P.3d 460, 467

(App. 2002), and we find no abuse here. The sole issue presented on review is a scholarly argument that *Martinez* was wrongly decided. Coronado contends our supreme court in *Martinez* misinterpreted and misapplied the holding of *Blakely*. Whatever the argument's merits, it is one that only the supreme court can address. As an intermediate appellate court, we cannot overrule the decisions of our state's highest court. See *McKay v. Indus. Comm'n*, 103 Ariz. 191, 193, 438 P.2d 757, 759 (1968); *Myers v. Reeb*, 190 Ariz. 341, 342, 947 P.2d 915, 916 (App. 1997), quoting *City of Phoenix v. Leroy's Liquors, Inc.*, 177 Ariz. 375, 378, 868 P.2d 958, 961 (App. 1993) ("Whether prior decisions of the Arizona Supreme Court are to be disaffirmed is a question for that court.").

¶4 Because the trial court's ruling properly applied existing Arizona law, we cannot say it abused its discretion in denying post-conviction relief. Although we grant the petition for review, we deny relief.

JOSEPH W. HOWARD, Presiding Judge

CONCURRING:

JOHN PELANDER, Chief Judge

GARYE L. VÁSQUEZ, Judge